

CITY OF GREELEY, COLORADO
ORDINANCE NO. 46, 2022

**AN ORDINANCE OF THE CITY OF GREELEY AMENDING SECTIONS 6-998, 6-1000,
6- 1002 THROUGH 6-1009, 6-1013 AND 6-1015 OF THE CITY OF GREELEY
CODE OF ORDINANCES**

WHEREAS, in November 2020 a Development Impact Fee Study was prepared by Raftelis Financial Consultants, Inc. ("Raftelis Study"), setting forth a reasonable methodology and analysis for determining the impact of various types of development on City's improvements, facilities, and equipment, and estimating the cost of improvements, facilities and equipment necessary to meet the demands created by new development; and

WHEREAS, the Greeley City Council decided not to adopt the Raftelis Study as documented in Resolution 6, 2021; and

WHEREAS, the protection of the health, safety, and general welfare of the citizens of the City requires that the City's improvements, facilities, and equipment accommodate continuing growth within the City, and that new development pays its equitable share of these new improvements, facilities, and equipment; and

WHEREAS, in addition to reviews done in 2020, the Raftelis Study has been reviewed in 2022 with interested community builders, developers, bankers, and real estate professionals; and

WHEREAS, the City of Greeley intends to amend the Greeley Municipal Code to incorporate recommended changes to development fees based on the Raftelis Study.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO:

Section 1. Sections 6-998, 6-1000, 6-1002 through 6-1009, 6-1013 and 6-1015 of the Greeley Municipal Code are hereby amended as shown on Appendix A attached hereto and incorporated herein by reference.

Section 2. This Ordinance shall become effective five (5) days following its final publication as provided by the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS ____ DAY OF _____,
2022.

ATTEST

THE CITY OF GREELEY, COLORADO

City Clerk

Mayor John Gates

Sec. 6-998. Legislative findings.

The city council finds that:

- (1) The protection of the health, safety and general welfare of the citizens of the city requires that the city's improvements, facilities and equipment be expanded and improved to accommodate continuing growth within the city.
- (2) New residential and nonresidential development imposes increasing demands upon existing city improvements, facilities and equipment and often overburdens those improvements, facilities and equipment.
- (3) The tax revenues generated from new development do not generate sufficient funds to provide city facilities and equipment to serve the new development.
- (4) New development is expected to continue and will place increasing demands on the city to provide services, facilities and equipment to serve new development.
- (5) Development impact fees will enable the city to impose the proportionate share of the costs of required improvements, facilities and equipment on those new developments that create these new needs.
- (6) All types of development that are not explicitly exempted from the provisions of this chapter will generate demand for improvements, facilities and equipment.
- (7) The Development Impact Fee Study, prepared by ~~Duncan Associates~~ Raftelis, dated ~~December 2014~~ November 2020 (hereinafter referred to as the ~~Duncan~~ Raftelis Study), sets forth a reasonable methodology and analysis for determining the impact of various types of development on the city's improvements, facilities and equipment and for determining the cost of improvements, facilities and equipment necessary to meet the demands created by new development. The ~~Duncan~~ Raftelis Study provides the basis for the police, fire, parks, trails, storm drainage and transportation impact fees.
- ~~(8) The Development Fee Study prepared by Red Oak Consulting, dated May 2007 (hereinafter referred to as the Red Oak Study), sets forth a reasonable methodology and analysis for determining the impact of various types of development on the city's storm drainage facilities and for determining the cost of improvements, facilities and equipment necessary to meet the demands created by new development. The Red Oak Study provides the basis for the storm drainage fees.~~
- ~~(8) Due to the delay between completion of the Raftelis Study and adoption by the City Council, the fees adopted herein have been adjusted from those set forth in the Raftelis Study by application of the Economic Adjustment Factor.~~
- (9) The development impact fees described in this chapter do not exceed the costs of providing additional improvements, facilities and equipment required to serve those new developments.

- (10) The improvements, facilities and equipment will benefit new development in the city, and it is therefore appropriate to treat the entire city as a single service area for the purposes of calculating, collecting and spending the development fees.
- (11) There is both a rational nexus and a rough proportionality between the development impacts created by each type of development covered by this chapter and the development impact fees that development will be required to pay.
- (12) Except as described in section 6-1002(c) concerning optional independent fee calculation studies, the development fees created by this chapter are standardized fees to be applied uniformly within each specified class of development and are not discretionary fees to be determined on a case-by-case basis.
- (13) The development fees paid in new developments shall be used to expand or improve the city's improvements, facilities and equipment in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.
- (14) The development fees created by this chapter shall not be used to cure deficiencies in existing improvements, facilities and equipment.

Sec. 6-1000. Intent.

- (a) The intent of this chapter is to ensure that new development bears its proportionate share of the cost of improvements, facilities and equipment, that such proportionate share does not exceed the cost of the improvements, facilities and equipment required to serve such new development, and that funds collected from new developments are used to construct and pay for the improvements, facilities and equipment that benefit such new developments.
- (b) It is the further intent of this chapter that new development pay its proportionate share of improvements, facilities and equipment through the imposition of police, fire, parks, trail, storm drainage and transportation development impact fees to finance, defray or reimburse all or a portion of the costs incurred by the city to construct the improvements, facilities and equipment that serve or benefit such new development.
- (c) It is the intent of this chapter to collect from new development that amount of money necessary to offset new demand for improvements, facilities and equipment generated by the new development.
- (d) It is the intent of this chapter that monies collected as development fees and deposited in separate accounts for each fee never be commingled with monies from any other development fee fund and never be used for a type of facility or equipment different from that for which the fee was paid.
- (e) This chapter is adopted to ensure that the city will have sufficient improvements, facilities and equipment that are consistent with the improvements, facilities and equipment identified in the Duncan Raftelis Study, dated ~~December 2014~~

~~November 2020 and the Red Oak Study, dated May 2007;~~ and such other plans, policies, regulations and ordinances that are relevant and that have been approved by the city council.

Sec. 6-1002. Computation of amount of development fee.

- (a) An applicant required by this chapter to pay development impact fees may choose to have the amount of such fee determined pursuant to either subsection (b) or (c) of this section. Regardless of whether the applicant calculates the amount of the fee pursuant to subsection (b) or (c) of this section, such fee may be subject to the adjustment described in section 6-1013.
- (b) Unless an applicant requests that the city determine the amount of such fee pursuant to subsection (c) of this section, the city shall determine the amount of the required development fees by reference to the fee schedule in this chapter.
 - (1) If the applicant's development is of a type not listed in the schedule, then the city shall use the fee applicable to the most nearly comparable type of land use in that schedule.
 - (2) If the applicant's development includes a mix of those uses listed in the fee schedules, then the fee shall be determined by adding up the fees that would be payable for each use if it was a freestanding use pursuant to the fee schedule.
 - (3) If the applicant is applying for a permit to allow a change of use, the expansion or modification of an existing nonresidential building by more than 1,000 square feet, or the redevelopment of an existing development, the fee shall be based on the net positive increase in the fee for the new use or structure as compared to the development fee, if any, that would have been due under this chapter for the previous use or structure, whether or not such fee was actually paid. In the event that the proposed change of use, expansion, redevelopment or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of development fees previously paid.
- (c) An applicant may request that the city determine the amount of the required development fee by reference to an independent fee calculation study for the applicant's development prepared at the applicant's cost by qualified professionals, experts and/or economists and submitted to the city manager or his designee. Any such study shall be based on the same service standards, unit costs and criteria used in the ~~Duncan Study and/or the Red Oak~~ Raffetis Study, whichever is applicable, and must document the economic methodologies and assumptions used. The city may hire a qualified professional or consultant to review any independent fee calculation study on behalf of the city and may charge the costs of such review to the applicant. Any independent fee calculation study submitted by an applicant may be accepted, rejected or accepted with modifications by the city as the basis for calculating the development fees. If such study is accepted or accepted with modifications as a more accurate measure of the demand for new improvements facilities and equipment created by the applicant's proposed development than the applicable fee shown in the fee

schedules, then the applicable development fees due under this chapter may be calculated according to such study.

Sec. 6-1003. Automatic annual inflation adjustment.

- (a) The development impact fees shall be recalculated by the city manager, or his designee, on an annual basis, to reflect cost inflation experienced in the previous year, and the revised fee shall be effective on March 1 of each year. The revised fees will be adopted via city manager policy and shall be made available to the public approximately 120 days, or as soon as practical thereafter, before the March 1 effective date.
- (b) The fees will be recalculated by applying the economic adjustment factor. The economic adjustment factor shall be calculated ~~pursuant to the guidelines established in the economic adjustment factor~~ for all transportation, parks, fire, police, trails and storm drainage fees; using six weighted data variables, considered to be representative of economic growth, the cost of materials and services associated with constructing capital projects, and general economic conditions. The variables are:
- (1) Percent change in Greeley Utility Customer Accounts – representing the growth and scope of public services;
 - (2) Percent change in CDOT Construction Cost Index – representing the cost of providing transportation networks;
 - (3) Percent change in Engineering News Records Construction Cost Index – representing material costs associated with capital projects;
 - (4) Percent change in Engineering News Records Building Cost Index – representing labor costs associated with capital projects;
 - (5) Percent change in Assessed Value of Greeley Real Property – representing growth and the economic value of real property assets; and
 - (6) Percent change in Greeley MSA Employment – representing a general indicator of the economic health of the area.
- (c) The economic adjustment factor method of revising all transportation, parks, fire, police, trails and storm drainage development impact fees will be in effect until such time as a new development fee study ~~is completed and adopted~~ recommends a change to the methodology.

Sec. 6-1004. Police development fee schedule.

The police development fee schedule has been calculated pursuant to the ~~Duncan Raftelis~~ Study and has been adjusted pursuant to the economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows: ~~and is set forth as follows:~~

Land Use Type	Unit	Fee
Single family detached	Dwelling	\$117.00
Multifamily	Dwelling	\$88.00
Mobile home park	Site	\$123.00

Retail/commercial	1,000 sq. ft.	\$143.00
Office	1,000 sq. ft.	\$67.00
Industrial	1,000 sq. ft.	\$27.00
Warehouse	1,000 sq. ft.	\$13.00
Public/institutional	1,000 sq. ft.	\$51.00
Oil and gas well	Wellhead	\$58.00

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
<u>Residential</u>	1,200 or less of heated living space ¹	<u>\$131</u>
<u>Residential</u>	1,201 to 1500 of heated living space ¹	<u>\$231</u>
<u>Residential</u>	1,501 to 1,800 of heated living space ¹	<u>\$263</u>
<u>Residential</u>	1,801 or more of heated living space ¹	<u>\$280</u>
<u>Retail/Restaurant</u>	1,000 Sq. Ft of Building	<u>\$841</u>
<u>Office & Other Services</u>	1,000 Sq. Ft of Building	<u>\$452</u>
<u>Industrial</u>	1,000 Sq. Ft of Building	<u>\$230</u>

¹ Heated living space excludes garages, outdoor patio/porches/balconies, and unfinished basements

Sec. 6-1005. Fire development fee schedule.

The fire development fee schedule has been calculated pursuant to the ~~Duncan Study and is set forth as follows:~~ Raftelis Study and has been adjusted pursuant to the economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows:

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
Single family detached	Dwelling	\$524.00
Multifamily	Dwelling	\$393.00
Mobile home park	Site	\$550.00
Retail/commercial	1,000 sq. ft.	\$641.00
Office	1,000 sq. ft.	\$301.00
Industrial	1,000 sq. ft.	\$119.00
Warehouse	1,000 sq. ft.	\$57.00
Public/institutional	1,000 sq. ft.	\$229.00
Oil and gas well	Wellhead	\$261.00

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
<u>Residential</u>	1,200 or less of heated living space ¹	<u>\$342</u>
<u>Residential</u>	1,201 to 1500 of heated living space ¹	<u>\$602</u>

<u>Residential</u>	<u>1,501 to 1,800 of heated living space¹</u>	<u>\$683</u>
<u>Residential</u>	<u>1,801 or more of heated living space¹</u>	<u>\$728</u>
<u>Retail/Restaurant</u>	<u>1,000 Sq. Ft of Building</u>	<u>\$1,872</u>
<u>Office & Other Services</u>	<u>1,000 Sq. Ft of Building</u>	<u>\$1,006</u>
<u>Industrial</u>	<u>1,000 Sq. Ft of Building</u>	<u>\$513</u>

¹ Heated living space excludes garages, outdoor patio/porches/balconies, and unfinished basements

Sec. 6-1006. Park development fee schedule.

The park development impact fee schedule has been calculated pursuant to the ~~Duncan Study~~ and is set forth as follows: ~~Raftelis Study~~ and has been adjusted pursuant to the economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows:

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
Single-Family Detached	Dwelling	\$2,721.00
Multifamily	Dwelling	\$2,041.00
Mobile Home Park	Site	\$2,857.00

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
<u>Residential</u>	<u>1,200 or less of heated living space¹</u>	<u>\$2,543</u>
<u>Residential</u>	<u>1,201 to 1500 of heated living space¹</u>	<u>\$4,469</u>
<u>Residential</u>	<u>1,501 to 1,800 of heated living space¹</u>	<u>\$5,067</u>
<u>Residential</u>	<u>1,801 or more of heated living space¹</u>	<u>\$5,403</u>

¹ Heated living space excludes garages, outdoor patio/porches/balconies, and unfinished basements

Sec. 6-1007. Trails development fee schedule.

The trails development fee schedule has been calculated pursuant to the ~~Duncan Study~~ and is set forth as follows: ~~Raftelis Study~~ and has been adjusted pursuant to the economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows:

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
Single-family detached	Dwelling	\$377.00
Multifamily	Dwelling	\$283.00
Mobile home park	Site	\$396.00

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
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<u>Residential</u>	<u>1,200 or less of heated living space¹</u>	<u>\$382</u>
<u>Residential</u>	<u>1,201 to 1500 of heated living space¹</u>	<u>\$671</u>
<u>Residential</u>	<u>1,501 to 1,800 of heated living space¹</u>	<u>\$759</u>
<u>Residential</u>	<u>1,801 or more of heated living space¹</u>	<u>\$810</u>

¹ Heated living space excludes garages, outdoor patio/porches/balconies, and unfinished basements

Sec. 6-1008. Storm drainage development fee schedule.

The storm drainage development fee schedule has been calculated pursuant to the Raftelis Study and has been adjusted pursuant to the economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows: The 2007 phased-in base level storm drainage development fee schedule has been calculated pursuant to the Red Oak Study and has been adjusted pursuant to an economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows:

	<u>Fee</u>
<u>Single-family residential, per dwelling unit</u>	<u>\$341.00</u>
<u>Multifamily residential, per dwelling unit</u>	<u>\$245.00</u>
<u>Retail, per site square foot of impervious surface¹</u>	<u>\$0.094</u>
<u>Commercial, per site square foot of impervious surface²</u>	<u>\$0.094</u>
<u>Industrial, per site square foot of impervious surface³</u>	<u>\$0.094</u>
<u>Oil and gas</u>	<u>\$188.00</u>

¹ Shall not exceed 70 percent of the impervious surface.

² Shall not exceed 70 percent of the impervious surface.

³ Shall not exceed 76 percent of the impervious surface.

<u>Unit</u>	<u>Fee</u>
<u>Per sit square foot of impervious surface</u>	<u>\$0.264</u>

Sec. 6-1009. Transportation development fee schedule.

The transportation development impact fee schedule has been calculated pursuant to the Duncan Study and is set forth as follows: Raftelis Study and has been adjusted pursuant to the economic adjustment factor. The current fee schedule as of the date the ordinance codified herein is adopted is set forth as follows:

<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
<u>Single-family detached</u>	<u>Dwelling</u>	<u>\$3,645.00</u>
<u>Multifamily</u>	<u>Dwelling</u>	<u>\$2,353.00</u>
<u>Mobile home park</u>	<u>Site</u>	<u>\$1,092.00</u>
<u>Retail/commercial</u>	<u>1,000 sq. ft.</u>	<u>\$4,825.00</u>

Office	1,000 sq. ft.	\$4,266.00
Industrial	1,000 sq. ft.	\$1,476.00
Warehouse	1,000 sq. ft.	\$1,376.00
Public/institutional	1,000 sq. ft.	\$2,390.00
Oil and gas well	Wellhead	\$1,680.00
<u>Land Use Type</u>	<u>Unit</u>	<u>Fee</u>
<u>Residential</u>	1,200 or less of heated living space ¹	<u>\$3,192</u>
<u>Residential</u>	1,201 to 1500 of heated living space ¹	<u>\$5,895</u>
<u>Residential</u>	1,501 to 1,800 of heated living space ¹	<u>\$6,751</u>
<u>Residential</u>	1,801 or more of heated living space ¹	<u>\$7,213</u>
<u>Retail/Restaurant</u>	1,000 Sq. Ft of Building	<u>\$8,347</u>
<u>Office & Other Services</u>	1,000 Sq. Ft of Building	<u>\$5,383</u>
<u>Industrial</u>	1,000 Sq. Ft of Building	<u>\$2,742</u>

¹ Heated living space excludes garages, outdoor patio/porches/balconies, and unfinished basements

Sec. 6-1013. Credits against development fees.

- (a) After the effective date of the ordinance from which this chapter is derived, all land dedications and property improvements over and above those required by the city for a proposed development may be granted a credit against the applicable development fee imposed for such land dedication or property improvement uses that would otherwise be due for such development. However, no credit shall be awarded for:
- (1) Any land dedication for acquisition or construction of site-related improvements;
 - (2) Any land dedications not accepted by the city;
 - (3) Any acquisition or construction of property improvements not approved in writing by the city prior to commencement of the acquisition or construction; or
 - (4) Any land dedication, construction or acquisition of property improvements not included in the calculation of the applicable development fee pursuant to the ~~Duncan Study or the Red Oak Study, whichever is applicable~~ Raftelis Study.
- (b) In order to obtain a credit against development fees otherwise due, an applicant must submit a written offer to dedicate to the city specific parcels of land over and above those regularly required by the city or to acquire or construct specific improvements in accordance with all applicable state or city design and construction standards, and must specifically request a credit against the applicable identified development fee. Such written request must be made on a form provided by the city, must contain a statement under oath of the facts that qualify the applicant to receive a credit, must be accompanied by documents

evidencing those facts and must be filed not later than the time when an applicant applies for the first building permit that includes the obligation to pay the development fee against which the credit is requested. Failure by the applicant to follow the above procedures waives the claim for credit.

(c) The credit due to an applicant shall be calculated and documented as follows:

(1) Credit for qualifying land dedications shall, at the applicant's option, be valued at:

- a. One hundred percent of the most recent estimated actual value for such land as shown in the records of the county assessor; or
- b. That fair market value established by an MAI or Colorado Certified General Real Estate Appraiser acceptable to the city in an appraisal paid for by the applicant.

(2) In order to receive credit for qualifying acquisition or construction of improvements, the applicant shall submit completed engineering drawings, specifications and construction cost estimates to the city. The city shall determine the amount of credit due based on the information submitted or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the city.

(d) Approved credits shall become effective at the following times:

(1) Approved credits for land dedications shall become effective when the land has been conveyed to the city in a form acceptable to the city at no cost to the city and accepted by the city. When such conditions have been met, the city shall note that fact in its records. Upon written request from the applicant, the city shall issue a letter stating the amount of credit available.

(2) Approved credits for the acquisition or construction of property improvements shall become effective when:

- a. All required construction has been completed and has been accepted by the city;
- b. A suitable maintenance and warranty bond has been received and approved by the city; and
- c. All design, construction, inspection, testing, bonding and acceptance procedures have been completed in compliance with all applicable city and state procedures. However, approved credits for the construction of property improvements may become effective at an earlier date if the applicant posts security in the form of a performance bond, irrevocable letter of credit or escrow agreement and the amount and terms of such security are accepted by the city. At a minimum, such security must be in the amount of 125 percent of the approved credit, or 125 percent of the amount determined to be adequate by the city manager or designee, to allow the city to construct the property improvements for which the credit was given, whichever is higher. When such conditions have been met, the city shall note that fact in its records. Upon request of the applicant, the city shall issue a letter stating the amount of credit available.

- (e) Approved credits may be used to reduce the amount of the applicable development fees due from that specific proposed development until the amount of the credit is exhausted. Each time a request to use approved credits is presented to the city, the city shall reduce the amount of the applicable development fee otherwise due from the applicant, and shall note in the city records the amount of credit remaining, if any. Upon written request from the applicant, the city shall issue a letter stating the number of credits available.
- (f) Approved credits shall only be used to reduce the amount of development impact fees otherwise due under this chapter, and shall not be paid to the applicant in cash or in credits against any other monies due from the applicant to the city.

Sec. 6-1015. Separate account for each fee.

All development fees collected shall be deposited into a separate account identifying each fee account, in the city's Development Infrastructure Fund, which shall be a special fund created in accordance with section 5-6 of the city Charter. The city council shall have authority to make continuing appropriations from the accounts, and appropriations and expenditures from the accounts shall be made for the purpose of paying revenue bonds of the city and (subject to any contractual restrictions entered into by the city in connection with such revenue bonds) for the purpose of paying for improvements, facilities and equipment of the types identified in the ~~Duncan Study or the Red Oak Raftelis Study~~ Raftelis Study.